

Radnor Township Business Tax Department
Frequently Asked Questions
About Business Privilege and Mercantile Taxes

Date: November, 2023

QUESTIONS ABOUT PENALTIES AND INTEREST

QUESTION: I couldn't get to the Township Building on the May 15th due date and, therefore, I filed my Business Privilege Tax return one day late on May 16th. Can the Township abate the penalty and interest?

ANSWER: Under the Township's Business Tax Code, penalties and interest are mandatory if tax is not paid when due. Imposition of penalties and interest is not discretionary under the Code. Pennsylvania law does require or allow the Township to abate penalty and interest, or certain portions therefore, but only in two circumstances:

- a. The Township has the discretion to abate interest if tax was not paid on time due to a delay in the performance of a ministerial act by the Township, but only if the taxpayer was not in part responsible for the delay and, in some cases, only after the township contacted the taxpayer in writing with respect to the underpayment of tax.

Example: The Township audited the taxpayer to determine compliance with the Tax Code. The Auditor completed his audit on January 15, but the Township lost the report and failed to assess the delinquent taxes until June 15. The Township has the discretion to abate the interest that accrued on the unpaid tax principal between January 15 and June 15.

- b. The Township must abate penalty and interest to the extent the failure to file on time was the result of erroneous written advice by the Township made directly to the taxpayer in response to a specific request of the taxpayer and only where the taxpayer did not fail to provide adequate or accurate information and where the taxpayer reasonably relied on the erroneous written advice.

Example: In 2018, the taxpayer completed a Request for Tax Determination and supplied all information requested by the Township. The Township issued a Tax Determination that certain

of taxpayer's operations constituted exempt manufacturing, while other operations were subject to tax. In 2021, the Township determined that none of the taxpayer's operations actually qualified as manufacturing. The Township must abate all penalty and interest associated with the failure to pay tax so long as the taxpayer had timely filed its returns in accordance with the erroneous advice.

Note that taxpayers are not required to file their returns in person at the Township building. Returns may be submitted by mail and as long as they are postmarked by the United States Postal Service (as opposed to postage meter date) on or before the due date, they will be considered timely even if they are delivered by the post office after the due date.

QUESTION: I did not receive my Business Privilege and/or Mercantile Tax Return form from the Township and, therefore, did not know I had to file. Can I get an abatement of penalty and interest?

ANSWER: No. The Township is not required to send returns to taxpayers. The Township does this as a courtesy. Forms are available at the Township Building and on the Township's website. Failure to receive a form from the Township does not constitute legal grounds for the Township to abate penalty and/or interest.

QUESTION: Does the Township extend the May 15th due date for filing returns if May 15th falls on a weekend or federal holiday?

ANSWER: Yes. If May 15th falls on a weekend or federal holiday, the due date is extended to the next business day.

QUESTION: What counts as a timely postmark when a return is mailed to the Township?

ANSWER: Returns are due annually on or before May 15th. The Regulations provide that a return is timely filed if it is postmarked by the United States Postal Service on or before the May 15th due date. A USPS postmark is an imprint that shows the name of the USPS office that accepted custody of the mail, along with the date of mailing. The Pennsylvania Supreme Court has determined that a date on a private postage meter lacks inherent reliability because the meter can readily be changed to any date by the

user. Therefore, the only postmark accepted to prove timely filing is a USPS postmark. Meter markings are ***not*** postmarks and will not be accepted to prove the date of mailing.

Note that if a return is received through the United States mail with no USPS postmark, there is no proof of mailing and the return will be considered mailed on the date of receipt by the Township.

Please refer to the Township's Business Tax Regulations for more information on penalties and interest.